



MEMORANDUM OF UNDERSTANDING

between the

United States Air Force

and

Civil Air Patrol

25 January 1991

**as amended
8 November 1991**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
UNITED STATES AIR FORCE
AND
CIVIL AIR PATROL**

A. PURPOSE:

The purpose of this Memorandum is twofold: (1) to define the duties and responsibilities of the Civil Air Patrol as a volunteer civilian auxiliary of the United States Air Force; and (2) define and establish responsibilities and respective support between the Air Force and the Civil Air Patrol. Civil Air Patrol is a private corporation chartered under Federal law with statutory purposes and is eligible to receive discretionary Air Force support. Therefore, close coordination is necessary between both parties to effect this Memorandum.

B. SCOPE:

This Memorandum covers those relationships, policies, and activities in which the Civil Air Patrol performs as an auxiliary of the Air Force. The Air Force recognizes Civil Air Patrol's right, however, to involve itself in activities exclusive of Air Force interests. In those areas in which the Civil Air Patrol is performing as an auxiliary of the Air Force, as delineated in this Memorandum, the Civil Air Patrol agrees to comply with Air Force directives as agreed to by Civil Air Patrol and HQ CAP-USAF. The listing and identifications within this Memorandum are not intended to be exclusive.

C. DEFINITIONS:

1. Air Force Civilian Auxiliary:

a. A private organization that is organized and equipped to provide specified support and services to the Department of the Air Force, and to pursue its statutory objectives.

b. The Civil Air Patrol has been designated by statute as a volunteer civilian auxiliary of the Air Force, and is organized to provide trained volunteers in emergency services and aerospace education and training for senior and cadet members.

2. Instrumentality of the United States:

a. An instrumentality of the United States is a legal status conferred upon an otherwise private or non-federal agency, organization, or entity by statute, which gives the agency, organization, or entity the same or similar benefits, immunities, and privileges, accorded to the United States Government and its agencies, as defined or otherwise limited by the enabling statutes.

b. The Civil Air Patrol is an instrumentality of the United States, for civil liability purposes, whenever it is engaged in the performance of an Air Force assigned mission. Civil Air Patrol missions which have been assigned by the Air Force, will have Air Force mission numbers and will be covered under the Federal Tort Claims Act (FTCA) and the Federal Employees Compensation Act (FECA), unless otherwise agreed to by Memoranda of Understanding (MOU) or Letters of Agreement (LOA).

3. Noncombat Mission of the Department of the Air Force:

a. An Air Force noncombat mission is any mission for which the Air Force is tasked, by statute, regulation, or higher authority, which does not involve actual combat, combat operations, or combat training.

b. The Secretary of the Air Force, in lieu of using Air

Force resources, may use the services of the Civil Air Patrol in fulfilling any noncombat mission of the Air Force.

c. All Air Force noncombat missions assigned to the Civil Air Patrol will be referred to hereinafter, as Air Force-assigned missions.

4. Civil Air Patrol Corporate Mission:

Any mission performed by Civil Air Patrol which is not an Air Force-assigned mission.

D. AIR FORCE-ASSIGNED MISSIONS FOR THE CIVIL AIR PATROL:

1. General Provisions:

a. The Civil Air Patrol, as a civilian auxiliary of the Air Force, is authorized to perform specified assigned missions of the Air Force. Additionally, as a civilian auxiliary of the Air Force, the Civil Air Patrol may be authorized by the Air Force to provide designated services to other federal, state, local, and private agencies.

b. All Civil Air Patrol missions assigned by the Air Force, whether in support of Air Force or other federal, state, local, or private agencies, will be issued an Air Force mission number by the appropriate Air Force authority.

c. Air Force mission numbers will not be issued, unless otherwise provided herein, for Civil Air Patrol missions in support of other federal, state, local, or private agencies unless there is a memorandum of understanding or letter of agreement with that agency or organization, which specifies the missions to be performed by the Civil Air Patrol, and is approved and signed by the designated Air Force authority. The approval of the memorandum or agreement by the designated Air Force authority will make the missions enumerated therein Air Force-assigned missions.

d. Each memorandum of understanding or letter of agreement will address the issues of third party liability coverage, Workmen's Compensation benefits, and expense reimbursement, and will specify if the Air Force or the supported agency or activity will provide the coverage.

e. All other missions performed by the Civil Air Patrol are considered corporate missions, over which the Air Force exercises no control, and for which no federal benefits will apply (e.g., FTCA, FECA, reimbursement). Except for specified cadet flight training designated in this Memorandum, the Civil Air Patrol Cadet Program, to include its personnel policies and procedures, and the Civil Air Patrol Aerospace Education Program, are corporate missions. The Civil Air Patrol agrees to add the United States Government as an additional insured under all corporate insurance policies at the time of renewal, if there is no significant additional cost to Civil Air Patrol Incorporated.

f. When the Civil Air Patrol is operating as an instrumentality of the United States:

(1) The provisions of the Federal Employees Compensation Act, 5 U.S.C. 8101 et seq., are applicable to Civil Air Patrol members who are at least 18 years old.

(2) The provisions of the Federal Tort Claims Act, 28 U.S.C. 2671-2680, are applicable for civil liability purposes, and the United States will be substituted for Civil Air Patrol

Incorporated and/or its members in the same manner and under the same statutory provisions applicable to any federal agency or employee in like circumstances.

g. The provisions of AFR 112-1, "Claims and Tort Litigation," Chapter 17, "Civil Air Patrol Claims" will apply to the adjudication of all personal injury and property damage claims filed against the United States arising out of Civil Air Patrol activities.

2. Mission Management:

a. The Air Force will determine which missions the Civil Air Patrol will perform on behalf of the Air Force and other agencies as agreed in accepted memoranda of understanding.

b. The Civil Air Patrol is responsible for conducting all aviation missions in accordance with Federal Aviation Administration (FAA) standards and regulations. Civil Air Patrol will notify HQ CAP-USAF of all exceptions granted by the DOT/FAA to these standards.

c. The Civil Air Patrol will obtain Air Force approval of those Civil Air Patrol directives and regulations governing assigned missions.

3. Designation of Assigned Missions:

The Air Force-assigned missions for the Civil Air Patrol listed within this section receive FECA and FTCA coverage. Reimbursement in accordance with section F for these missions are grouped as follows:

a. Reimbursable missions:

(1) Search and Rescue missions approved by the Air Force Rescue Coordination Center (AFRCC) - CONUS; Joint Rescue Coordination Center (JRCC), Alaskan Command (ALCOM) - Alaska; JRCC, Pacific Command (PACOM) - Hawaii; and the Coast Guard District Rescue Coordination Center - Puerto Rico.

(2) Search and Rescue evaluations, exercises, and training missions, approved by HQ CAP-USAF.

(3) Disaster Relief missions - "imminently serious," approved by Air Force National Security Emergency Preparedness Division (AFNSEP/EP) - CONUS; Alaskan Command (ALCOM) - Alaska; Pacific Command (PACOM) - Hawaii; and Atlantic Command (LANTCOM) - Puerto Rico. These missions are performed in accordance with public law under Military Support of Civil Authorities (MSCA) rules.

(4) Disaster Relief missions - "Presidentially declared," approved by the Department of Military Support (DOMS). These missions are performed in accordance with public law under Military Support of Civil Authorities (MSCA) rules.

(5) Disaster Relief evaluations, exercises, and training missions, approved by HQ CAP-USAF.

(6) Military Support of Civil Defense (MSCD), and Joint Key Assets Protection (JKAP) - "national security emergencies" (i.e., wartime or catastrophic peacetime disasters), approved by Air Force Emergency Preparedness Liaison Officer (EPLO) or CAP-USAF Liaison Officer in coordination with individual State Area Commands (STARC) (i.e., federalized State Adjutants General).

(7) Low-level training route surveys, area orientations, and miscellaneous other support missions (e.g., parts/personnel transport, radar facility and target training support), requested by the Air Force or other Department of Defense agency, approved by HQ CAP-USAF.

(8) Annual CAP Form 5 flight checks in CAP aircraft, approved by appropriate Air Force authority.

(9) Biennial Mission Pilot flight checks and Mission Check Pilot flight checks as needed when approved by appropriate Air Force authority.

b. Non-reimbursable missions:

(1) CAP cadet orientation flights, approved by designated Air Force authority.

(2) Squadron or higher level official conferences or meetings, approved by HQ CAP-USAF.

(3) Official visits to any location by CAP personnel in support of, or associated with, an Air Force-assigned mission, approved by HQ CAP-USAF.

(4) Maintenance and ferry flights of corporate owned aircraft, approved by HQ CAP-USAF.

(5) Training flights specifically conducted to train CAP aircrews to support any assigned Air Force mission, but not leading to higher airman rating or certificates, and conducted under guidelines published by HQ CAP-USAF. Such missions may be treated as reimbursable missions as provided under section 3a of this paragraph at the discretion of HQ CAP-USAF and in accordance with an approved training syllabus.

(6) Proficiency flight training for mission pilots not leading to higher airman ratings or certificates; and conducted under syllabus guidelines published by HQ CAP-USAF.

(7) Flight activities by CAP members participating in CAP cadet flight training leading to a private pilot certificate as approved by appropriate Air Force authority.

(8) CAP flight clinics as approved by HQ CAP-USAF.

(9) Other missions not listed in this section if specifically approved by appropriate Air Force authority.

c. Missions in which the specific terms must be approved by memoranda of understanding or letters of agreement:

(1) Support missions requested by a federal agency (e.g., Customs, DEA, USFS, FAA) or a national relief agency (e.g., American Red Cross, Salvation Army), which are specified in memoranda of understanding or letters of agreement that have been signed and approved by appropriate Air Force authority.

(2) Support missions requested by a state/local government or private agencies which are specified in memoranda of understanding or letters of agreement that have been signed and approved by appropriate Air Force authority.

E. INVESTIGATION OF CIVIL AIR PATROL FLIGHT MISHAPS:

Civil Air Patrol aircraft mishaps will be investigated by the National Transportation Safety Board or the FAA, as necessary. A memorandum of understanding between the Air Force, Civil Air Patrol, and the National Transportation Safety Board will be pursued.

F. FINANCIAL MATTERS:

Appropriated funds are used for Civil Air Patrol support in those areas deemed necessary by the Air Force. Included is the cost of aircraft, vehicles, equipment, maintenance, commercial communications, fuel, and lubricants associated with Air Force-assigned missions. Additionally, appropriated funds pay for Civil Air Patrol cadet uniforms. In order to support Civil Air Patrol with appropriated funds, Civil Air Patrol requirements must be submitted for inclusion into the biennial planning, programming, and budgeting system for consideration by the Air Force.

G. UNIFORM AND GRADE:

1. The Air Force reserves complete authority over the uniform wear and design made available to the Civil Air Patrol. In addition, the Air Force reserves complete authority over the Civil Air Patrol general officer grade structure.

2. In order to make changes to the Civil Air Patrol uniform items or general officer grade, requests will be submitted through CAP-USAF and Air University to the Air Force Deputy Chief of Staff, Personnel, for approval in accordance with Air Force regulations. In turn, the Air Force will coordinate with the Civil Air Patrol when considering changes that would affect the Civil Air Patrol uniforms or general officer grade structure.

H. AIR FORCE LIAISON WITH AND SUPPORT OF CIVIL AIR PATROL:

1. The Secretary of the Air Force reserves complete authority to determine the liaison organization, structure, and duties of Air Force active duty members and those of the Air Reserve Forces.

2. The Air Force has an interest in aerospace education and training and therefore will continue its support of Civil Air Patrol educational programs as currently outlined in regulations by providing access to facilities, services, and educational materials.

3. Civil Air Patrol will continue to conduct the cadet program, encouraging CAP cadets to enter the Air Force and Air Force Academy. USAF will consider credit for CAP Spaatz cadets with preference in Air Force commissioning or entry into the Air Force Academy.

I. COOPERATION:

1. Memoranda of Understanding/Letters of Agreement Between Civil Air Patrol and Other Agencies:

All existing memoranda of understanding and letters of agreement between Civil Air Patrol Incorporated and other governmental or private agencies will be reviewed and approved by the Secretary of the Air Force or designated authority within one year of the signing of this Memorandum. Unless a memorandum of understanding/letter of agreement has been approved within one year of the signing of this Memorandum, missions conducted under the existing memorandum/agreement will not be eligible for Air Force mission numbers. New memoranda/agreements will be reviewed and approved prior to implementation.

2. Resolution of Differences:

a. In case a difference arises between the Civil Air Patrol and the Air Force, the resolution will be sought within the Department of Defense.

b. Civil Air Patrol shall have the right to communicate at any time to Headquarters, Air University and Headquarters, Air Force, in turn, on any significant USAF policy decisions or

USAF actions involving the CAP program deemed inconsistent with the terms of this Memorandum or otherwise deemed by CAP to present a major policy issue.

3. Items not specifically covered in this Memorandum or established guidelines, regulations, or operating procedures will be negotiated by both parties as needed.

4. Issuance/Modification of Regulations:

a. The Air Force will modify its regulations and the Civil Air Patrol will modify its bylaws and regulations to reflect the provisions in this Memorandum.

b. Neither Civil Air Patrol nor the Air Force will issue or change regulations, directives, or publications affecting the CAP program without advance consultation with the other party. Advance consultation for the purpose of this paragraph shall mean the right to provide written comments.

5. The Civil Air Patrol and the Air Force will make a good faith effort to coordinate Air Force/Civil Air Patrol legislative issues.

6. The Air Force agrees to review the following areas:

a. Making Civil Air Patrol employees and national officers and staff eligible for travel and hotel rates under government status.

b. Exclude Civil Air Patrol from paying GSA facility charges in accordance with 10 U.S.C. 9442.

c. Exclude Civil Air Patrol from DOD "turn back" of equipment acquired from appropriated funds.

d. The Air Force will consider transferring facilities to Civil Air Patrol during base closure/realignment actions.

7. The Air Force and the Civil Air Patrol shall, in a timely manner, freely exchange information on both Air Force and Civil Air Patrol funding needs with a view towards having mutual agreement on funding requirements.

J. EFFECTIVE DATES:

1. This Memorandum of Understanding shall be effective from the date of execution by representatives of the Civil Air Patrol and the Air Force. The provisions of this Memorandum of Understanding will be reviewed biennially and will remain in effect until amended by mutual agreement or until terminated by either party.

2. To provide a transition period, all current operations and policies will continue as is until one year from the date of execution of this Memorandum of Understanding unless otherwise agreed to by both parties. Civil Air Patrol will maintain existing Department of Justice-mandated commercial aviation insurance policy indemnifying the United States Government for all potential claims arising from certain CAP flying activities until rescinded by the Department of Justice.

WARREN J. BARRY

Brigadier General, CAP

National Commander, Civil Air Patrol

JOSEPH M. NALL

Colonel, USAF

Commander, Civil Air Patrol-USAF

APPROVED 25 JANUARY 1991

AMENDED 8 NOVEMBER 1991

MICHAEL P. REARDON

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